IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 22590 of 2004

Between:

G. Ramulu, S/o Sri Mallaiah ,
R/o NTPC Qtr. No. B-34, TTS Jyothinagar, Karimnagar .

..... PETITIONER

AND

The Executive Engineer, (R&B), Division,

Peddapally, Karimnagar District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue A writ or order or direction more particularly one in the nature of Writ of Mandamus calling for the records relating thereto and in connection with the impugned proceedings dt. 27-03-2004 issued by the Respondent herein namely the Executive Engineer (R&B) Division, Peddapally, received by the petitioner in the month of September 2004, through an altogether different process in his letter No. 3070/DB/HD/EEP/2004/320 and to set a side the same as illegal unconstitutional, violative of Articles 14, 300-A and principles of natural justice.

Counsel for the Petitioner: MR.T.JAGDISH

Counsel for the Respondent: GP FOR ROADS & BUILDINGS

The Court at the admission stage made the following :

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ORDER:

The Executive Engineer issued a letter dated 27-03-2004 to the writ petitioner requesting him to remit the deficit stamp duty of Rs.5,91,900/-. Challenging the same, the present writ petition is filed.

2. The learned counsel for the petitioner vehemently contended that it is not the Executive Engineer, who can determine the stamp duty payable on an instrument, but it is the District Collector, who has to pass appropriate orders with regard to the stamp duty payable on instrument. Hence, the Executive Engineer has no jurisdiction at all to direct the petitioner to pay the deficit stamp duty. Hence, he prays to set aside the impugned proceedings.

3. The learned Government Pleader for the respondent contended that basing on the inspection report furnished by the Audit party, the petitioner is directed to pay the deficit stamp duty and therefore, the order under challenge does not suffer from any serious legal infirmities.

4. It is not disputed before this Court that under Section 47(A) of the Indian Stamp Act, the District Collector, Stamps and Registration is the competent authority to determine the stamp duty payable on an instrument. But basing on the report given by the Audit Party, the Executive Engineer passed the impugned proceedings which in my considered opinion is contrary to Section 47(A) of the Indian Stamp Act, 1899. Hence, the impugned proceedings suffer from jurisdictional error and therefore this Court can quash the same inasmuch as neither the Executive Engineer nor the Audit General Party has authority to determine the deficit stamp duty payable on an

instrument. Therefore, the impugned proceedings suffer from serious legal infirmities. Hence, the proceedings are quashed. The quashing of the proceedings does not preclude the Executive Engineer in referring the instrument to the District Collector, for determination of proper stamp duty.

5. The writ petition is, accordingly, disposed of. In the circumstances, no costs.

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K.C.BHANU, J

Date: 09-12-2004.

Chvn/Stp.

Note:

C.C. tomorrow

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Executive Engineer, (R&B), Division,

Peddapally, Karimnagar District.

2 Two C.Cs. to the Government Pleader, Roads & Buildings, High

Court Buildings, Hyderabad(OUT).

3 Two C.D.copies.